



Industrial Telecommunications Association, Inc.

August 22, 2002

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Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-325
Washington, DC 20554

95-102

AUG 22 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Rm-10564

Re: Petition for Rulemaking

Dear Ms. Dortch:

Pursuant to Section 1.401 of the Commission's rules, the Industrial Telecommunications Association (ITA) hereby submits this Petition for Rulemaking, which seeks to amend Section 95.401(b) of the Commission's rules. ITA specifically seeks to prohibit daily business communications on Family Radio Services frequencies.

If we can be of further assistance, please do not hesitate to contact us. We look forward to working with the Commission's staff in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Robin Landis', is written over a horizontal line.

Robin Landis
Assistant, Regulatory Affairs

Enclosure

CICS
Council of Independent
Communication Suppliers

TELFAC
Telephone Maintenance Frequency
Advisory Committee

TLCC
Taxicab and Livery
Communications Council

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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AUG 22 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Amendment of Part 95 of the
Commission's Rules to
Establish a Very Short Distance
Two-way Voice Radio Service

)
)
) WT Docket No. 95-102
) RM-8499
) RM-10564
)
)

PETITION FOR RULEMAKING

The Industrial Telecommunications Association (ITA), pursuant to Section 1.401¹ of the Commission's rules, hereby respectfully submits a *Petition for Rulemaking* (Petition), which seeks to amend Section 95.401(b) of the Commission's rules.² With this Petition, ITA specifically seeks to prohibit daily business communications on Family Radio Services (FRS) frequencies.³

I. Statement of Interest

ITA is a Commission-certified frequency advisory committee coordinating in excess of 6,000 applications per year on behalf of applicants seeking Commission authority to operate business and industrial/land transportation radio stations on frequency assignments allocated between 30-900 MHz.

ITA enjoys the support of a membership including more than 3,500 licensed two-way land mobile radio communications users, private mobile radio service (PMRS) oriented radio dealer organizations, and the following trade associations:

¹ 47 C.F.R. § 1.401.

² 47 C.F.R. § 95.401(b).

³ 47 C.F.R. § 95.627(a), stating, "the FRS unit channel frequencies are 462.5625, 462.5875, 462.6125, 462.6375, 462.6625, 462.6875, 462.7125, 467.5625, 467.5875, 467.6125, 467.6375, 467.6625, 467.6875, 467.7125."

Alliance of Motion Picture and Television Producers
Aeronautical Radio, Inc.
Associated Builders & Contractors, Inc.
Florida Citrus Processors Association
Florida Fruit & Vegetable Association
National Mining Congress
National Propane Gas Association
National Ready-Mixed Concrete Association
National Utility Contractors Association
New England Fuel Institute
United States Telephone Association

In addition, ITA is affiliated with the following independent market councils: the Council of Independent Communications Suppliers (CICS), the Taxicab & Livery Communications Council (TLCC), the Telephone Maintenance Frequency Advisory Committee (TELFAC), and USMSS, Inc.

II. Background

On March 15, 1996, the Commission released a *Report and Order* (R&O), establishing FRS to meet the demand for short distance, personal, two-way communications.⁴ The overcrowding of FRS spectrum by business use is depleting the usefulness of FRS for families and friends especially in emergency situations. We are filing this Petition in order to educate the Commission on the growing use of FRS by traditional business users and are seeking prohibition of this use as it was not the type of use originally envisioned by the Commission in the FRS band. Moreover, we believe the public interest benefit of restricting traditional business use on FRS channels outweighs the Commission's objective of minimal regulation⁵.

III. Discussion

The premise behind the Commission's decision to establish the FRS frequencies was to "fill a niche market that provided families, friends, and associates the capability to communicate

⁴ See Part 95 of the Commission's Rules to Establish a Very Short Distance Two-way Voice Radio Service, Report and Order, WT Docket No. 95-102 (rel. May 15, 1996) (R&O).

⁵ R&O at ¶ 17.

with one another over a very short range, typically a few blocks.”⁶ In the R&O, the Commission stated that FRS would help meet short range, two-way communication needs of families, friends and small groups.⁷ Furthermore, the specific uses and activities listed as examples of FRS operations in the R&O suggest that the intention of FRS frequencies was for personal use, not daily business operations. For example, the Commission expected FRS to be used by outdoor activity enthusiasts, for group outings.⁸

Despite the Commission’s obvious attempt to establish FRS to meet the communication needs of outdoor enthusiasts and families and friends on group outings, Section 95.401(a) of the Commission’s rules permits “business activities” as an acceptable form of communication in the Citizen Band (CB) Radio Service.⁹ While FRS is a CB Radio Service, ITA believes that the Commission did not intend to overrun these channels with daily business communications. Actually, the only mention of business use in all rules pertaining to FRS is included in the CB Radio Service definition, as noted above. Nonetheless, this reference is to the business activities of the general public, which is drastically different than the activities of businesses and their daily communications. Further, the only statement made about FRS business use in the R&O is in reference to comments made by the Personal Radio Steering Group (PRSG).¹⁰ The PRSG, in

⁶ R&O. at ¶ 18.

⁷ R&O. at ¶ 5.

⁸ R&O. at ¶ 3, “We envisioned the FRS as facilitating activities around the home, throughout the neighborhood, at group outings and at activities where group members become separated, either planned or inadvertently. The FRS would be useful to hunters, campers, hikers, bicyclists and other outdoor activity enthusiasts who need to communicate with other members of their party who are out of speaking range or sight but still in the same general area.”

⁹ 47 C.F.R. 95.401(a) “(CB) Radio Service-a private, two-way, very short-distance voice communications service for personal or business activities of the general public.”

¹⁰ R&O at ¶ 15.

its Comments, stated that FRS is a family-oriented radio service that should require a licensing process to protect personal communications from non-personal and non-family interests.¹¹

ITA understands the practicality for FRS frequencies and reasoning behind the Commission's unlicensed operating structure for the personal use market, but we are concerned about the unlicensed mix of business and personal users. The typical user of FRS equipment (*i.e.* a family member on an outing) would be using the radio on an informal basis, maybe a few times a day and sporadically throughout the year. In addition, the types of communications promoted by FRS, mentioned in Section 95.193(a) of the Commission's rules, specifically includes sending emergency messages and assisting travelers.¹² Business users, on the other hand, need communications anywhere from 5-7 days each week, every week of the year, sometimes every minute of the day. These business users could be using their system for safety of life communications, general safety applications in a manufacturing plant, or for maintenance purposes on an assembly line. These business systems are drastically different from personal communications in that they need reliable, accurate, efficient, constant communications, with a minimal interference potential and a longer range of service. The fact remains, unfortunately due to the lack of clarity in the rules, that some traditional businesses are using FRS units for their daily business needs, which limits the possibility of personal communications as envisioned for FRS.

If a single business deploys multiple FRS units in a given area, it could easily congest the spectrum in that area. If an individual in the same area is trying to use a FRS unit, there will be unable to communicate due to the overcrowding of the traditional business users on FRS

¹¹ See Amendment of the Commission's Rules to Establish a Very Short Distance Two-way Voice Radio Service, *Comments Filed in Response to a Notice of Proposed Rulemaking* by Personal Radio Steering Group, WT Docket 95-102 (Oct. 2, 2002) (PRSG). This statement demonstrates another group's concern that business operations should not be permitted on FRS frequencies.

¹² See 47 C.F.R. § 95.193(a)

channels. Conversely, there could be an emergency situation at an amusement park using FRS rather than traditional business radio spectrum and employees may not be able to find available spectrum to radio for assistance because of the abundance of families using FRS in the park. Businesses, if restricted from FRS, would be required to be licensed on traditional business radio spectrum, which is a more reliable alternative for all involved. The absence of business users would then free the FRS spectrum for the intended user (*i.e.* families) leading to a potentially safer environment for each type of user, personal and business and satisfying the public interest overall.

IV. Conclusion

ITA believes a rulemaking is necessary to restrict daily business activities, as traditionally defined in the Private Land Mobile Radio Services, on FRS frequencies to preserve FRS spectrum for its intended marketplace and use. The Commission has already recognized the importance of FRS units in emergency situations by stating, "FRS would enhance public and personal safety and service to individuals, including individuals with disabilities and parents wanting to keep in touch with their children."¹³ Over-utilization of this spectrum by businesses, however, will lead to the possible under-utilization of the FRS spectrum by the intended users.

It is vital for the protection of FRS frequencies, that daily business communication needs be met through existing frequency allocations suited for daily business activities. We further believe that the benefits of restricting business communications far outweigh the Bureau's objective of minimal regulation of FRS.

¹³ See R&O. at ¶ 5.

To protect the public interest and the integrity of FRS spectrum, we request that the Commission initiate a *Notice of Proposed Rulemaking* to restrict the use of daily, business-oriented private wireless operations on FRS channels.

Respectfully submitted,

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By: /s/ Laura L. Smith

Laura L. Smith, Esq.
President and CEO

/s/ Jeremy Denton

Jeremy Denton
Director, Government Affairs

/s/ Robin Landis

Robin Landis
Regulatory Affairs Assistant

CERTIFICATE OF SERVICE

I, Robin Landis, do hereby certify that on the 22nd day of August 2002, I forwarded to the parties listed below a copy of the foregoing Informal Request for Certification of the Industrial Telecommunications Association, Inc. via electronic mail:

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* via hand delivery

/s/ Robin Landis
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